

CCRB INVESTIGATIVE RECOMMENDATION

Investigator: John Jeffrey	Team: Squad #8	CCRB Case #: 202001687	<input type="checkbox"/> Force	<input type="checkbox"/> Discourt.	<input type="checkbox"/> U.S.
			<input checked="" type="checkbox"/> Abuse	<input type="checkbox"/> O.L.	<input type="checkbox"/> Injury
Incident Date(s) Friday, 02/28/2020 10:18 AM	Location of Incident: 534 Soundview Avenue	Precinct: 43	18 Mo. SOL 8/28/2021	EO SOL 4/14/2022	
Date/Time CV Reported Fri, 02/28/2020 1:54 PM	CV Reported At: CCRB	How CV Reported: Phone	Date/Time Received at CCRB Fri, 02/28/2020 1:54 PM		

Complainant/Victim	Type	Home Address

Subject Officer(s)	Shield	TaxID	Command
1. POM Christian Mas	00967	956893	043 PCT
2. SGT Wang Lou	03220	938885	043 PCT

Witness Officer(s)	Shield No	Tax No	Cmd Name
1. POM Jabbour Rabadi	20356	959104	043 PCT
2. POM Jose Blanco	20558	951548	043 PCT
3. POF Elisamparo Fanas	09669	963508	043 PCT

Officer(s)	Allegation	Investigator Recommendation
A.SGT Wang Lou	Abuse: Sergeant Wang Lou stopped the vehicle in which § 87(2)(b) was an occupant.	
B.POM Christian Mas	Abuse: Police Officer Christian Mas stopped the vehicle in which § 87(2)(b) was an occupant.	
C.POM Christian Mas	Abuse: Police Officer Christian Mas threatened to damage/seize § 87(2)(b)'s property.	
D.SGT Wang Lou	Abuse: Sergeant Wang Lou interfered with § 87(2)(b)'s use of a recording device.	
E.SGT Wang Lou	Abuse: Sergeant Wang Lou failed to provide § 87(2)(b) with a business card.	
§ 87(4-b), § 87(2)(g)		

Case Summary

On February 28, 2020, § 87(2)(b) filed this complaint over the phone with the CCRB.

On February 28, 2020, at approximately 10:18 a.m., in the vicinity of 534 Soundview Avenue in the Bronx, Sgt. Wang Lou of the 43rd Precinct stopped § 87(2)(b) at a vehicle checkpoint (**Allegation A: Abuse of Authority**, § 87(2)(g)).

§ 87(2)(b) refused to provide his license and registration to PO Christopher Mas of the 43rd Precinct and stated he would only do so if he was being detained. PO Mas told § 87(2)(b) if that was the case then he was being detained and to get out of his vehicle. § 87(2)(b) refused to exit his vehicle. PO Mas then threatened to break § 87(2)(b)'s car window (**Allegation B: Abuse of Authority**, § 87(2)(g)).

§ 87(2)(b) requested to speak to a supervisor and Sgt. Lou walked over. Sgt. Lou told § 87(2)(b) he needed to provide his license and registration. § 87(2)(b) argued with Sgt. Lou and then provided his identification. Sgt. Lou told § 87(2)(b) that he could not record at a vehicle checkpoint (**Allegation C: Abuse of Authority**, § 87(2)(g)). PO Mas then gave § 87(2)(b) his business card, Sgt. Lou did not provide § 87(2)(b) with his business card and instead just told § 87(2)(b) to leave (**Allegation D: Abuse of Authority**, § 87(2)(g)).

§ 87(4-b), § 87(2)(g)

Body Worn Camera video footage of this incident was received by the CCRB (Board Review 01).

Findings and Recommendations

Allegation (A) Abuse of Authority: Sergeant Wang Lou stopped the vehicle in which § 87(2)(b) was an occupant.

It is undisputed that on February 28, 2020, § 87(2)(b) was pulled over by Sgt. Lou, accompanied by PO Mas and PO Jabbour Rabadi of the 43rd Precinct, within the vicinity of 534 Soundview Avenue in the Bronx at a vehicle checkpoint. § 87(2)(b) stated in his interview with the CCRB that he was pulled over at a vehicle checkpoint (Board Review 02). PO Mas, PO Rabadi and Sgt. Lou are captured in § 87(2)(b)'s cellphone video of the incident (Board Review 03). In the video PO Mas and Sgt. Lou both inform § 87(2)(b) that he was being pulled over because he was at a vehicle checkpoint.

In his interview with the CCRB Sgt. Lou stated that this was a Grand Larceny Auto (GLA) checkpoint (Board Review 07). Sgt. Lou explained that prior to establishing a checkpoint a uniform procedure for pulling over vehicles is decided upon. Sgt. Lou could not recall the exact procedure being followed during this incident but stated usually officers pull over every other or every two vehicles that come through the checkpoint. Sgt. Lou stated that all stops that day were made in accordance to the uniform procedure.

Sgt. Lou made a memo book entry stating that on February 28, 2020, he was assigned to a Grand

Larceny Auto checkpoint located on Soundview Avenue between Lacombe Avenue and Randall Avenue (Board Review 05).

§ 87(2)(g)

According to the NYPD Patrol Guide Procedure No: 221-16 regarding vehicle checkpoints, “Unlike routine car stops, police officers are not required to articulate an individualized suspicion for each vehicle stopped pursuant to a vehicle checkpoint” (Board Review 08).

In *People v. Jackson*, 99 N.Y.2d 125 (2002) the Court of Appeals of New York cited the USSC decision in *City of Indianapolis v Edmond*, 531 US 32 (2000) and ruled that suspicionless stops at a roadblock established in Jackson were unconstitutional, because officers could not point to a programmatic objective that was not only to further general crime control (Board Review 09).

§ 87(2)(b) was pulled over because he was at a GLA checkpoint. § 87(2)(g)

Allegation (B) Abuse of Authority: Police Officer Christian Mas threatened to damage § 87(2)(b)'s property.

According to § 87(2)(b)'s interview with the CCRB and the first 32 seconds of the cellphone video he recorded, PO Mas told § 87(2)(b) multiple times that he was at a vehicle checkpoint and that he needed to provide his license and registration (Board Review 02 and 03). § 87(2)(b) told PO Mas he would only provide his information if he was being detained. PO Mas told § 87(2)(b) if that was the case to exit his vehicle because he was being detained. § 87(2)(b) refused, and PO Mas threatened to break § 87(2)(b)'s vehicle window.

In his memo book PO Mas stated that at 10:18 a.m. a motorist refused to provide his information and was then warned he would be physically removed from his vehicle if he continued to refuse (Board Review 06).

According to the NYPD Patrol Guide Procedure No: 221-16 regarding vehicle checkpoints, after officers stop a vehicle at a checkpoint it is permissible to request for their driver license, vehicle registration, and proof of insurance. Furthermore, a driver's failure to produce these documents allows for the issuance of a summons or other appropriate enforcement action (Board Review 08).

Patrol Guide Procedure 221-01 states that the reasonableness of the use of force is based upon the totality of the circumstances known by the MOS at the time of the use of force. The Department examines the reasonableness of force viewed from the perspective of a member with similar training and experience placed into the same circumstances as the incident under investigation (Board Review 10).

§ 87(2)(g)

§ 87(2)(g)

Allegation (C) Abuse of Authority: Sergeant Wang Lou interfered with § 87(2)(b)'s use of a recording device.

According to § 87(2)(b) after PO Mas threatened to break his window Sgt. Lou approached his vehicle and asked him to provide his identification (Board Review 02). § 87(2)(b) asked Sgt. Lou if he was going to allow PO Mas to threaten to break his window. Sgt. Lou told § 87(2)(b) that he did not hear PO Mas threaten him, but that § 87(2)(b) was not complying with PO Mas's orders and needed to provide his license and registration. § 87(2)(b) stated that he was recording the entire interaction and could play it back for Sgt. Lou. Sgt. Lou then told § 87(2)(b) that he was not allowed to record at a checkpoint.

Sgt. Lou did not record this incident on BWC (Board Review 01).

The cellphone video § 87(2)(b) recorded shows that at up until 01:15 minutes § 87(2)(b) refused to comply with Sgt. Lou's and PO Mas's orders to provide his license and registration (Board Review 03). Sgt. Lou and PO Mas asked § 87(2)(b) for the documents multiple times and explained that he needed to provide them because he was at a vehicle checkpoint. At three minutes § 87(2)(b) told Sgt. Lou he was recording the entire interaction between him and officers at the checkpoint. Sgt. Lou then told § 87(2)(b) that he was not allowed to record at a vehicle checkpoint.

In his interview with the CCRB Sgt. Lou identified himself in the cellphone video recorded by § 87(2)(b) (Board Review 07). Sgt. Lou stated that he did not independently recall telling § 87(2)(b) he could not record, but to his understanding according to the patrol guide only bystanders are allowed to record at vehicle checkpoints, and because § 87(2)(b) was the person being stopped he was not supposed to.

According to the NYPD Patrol Guide Procedure No. 203-29 regarding an individual's right to record police activity, "Individuals have a right to lawfully observe and/or record police activity including, but not limited to detentions, searches, arrests or uses of force." This right can be limited when an individual is posing a danger to police officers or other civilians, or if the individual videotaping/observing has committed a violation of the law. If neither exception is present officers are prohibited from threatening, intimidating, or otherwise discouraging an individual from recording (Board Review 11).

§ 87(2)(g)

Allegation (D) Abuse of Authority: Sergeant Wang Lou failed to provide § 87(2)(b) with a business card.

In his interview with the CCRB, § 87(2)(b) stated that he was only offered a business card from PO Mas, but not from Sgt. Lou (Board Review 02). § 87(2)(b) stated that his cellphone video captured the incident in its entirety, except for the first time PO Mas asked him for his license and registration.

During his interview with the CCRB, Sgt. Lou stated that he did not recall § 87(2)(b) ever asking for his shield number or his business card. Sgt. Lou stated that he did not remember his interaction with § 87(2)(b) (Board Review 07).

The cellphone video provided by § 87(2)(b) captures all the audio of his interaction with Sgt. Lou, however § 87(2)(b) occasionally points the camera away from Sgt. Lou to point it at PO Mas (Board Review 03). Between 1:16 minutes and 1:40 minutes § 87(2)(b) places his phone down so he can hand Sgt. Lou his driver license. At 04:10 minutes PO Mas asked § 87(2)(b) if he would like his contact information and he handed § 87(2)(b) his business card. At no point in the video can Sgt. Lou be heard offering or seen providing his business card to § 87(2)(b).

The investigation received BWC footage from PO Rabadi, a witness of the incident (Board Review 12). From the beginning of the video until 01:22 minutes PO Rabadi's BWC captures Sgt. Lou's interaction with § 87(2)(b). At no point in that timeframe does it appear Sgt. Lou handed § 87(2)(b) his business card. At 04:14 minutes PO Rabadi's BWC shows PO Mas handing his contact card to § 87(2)(b). The investigation also received BWC footage from PO Jose Blanco from the 43rd Precinct, another witness of the incident (Board Review 13). PO Blanco's BWC footage does not appear to show Sgt. Lou handing § 87(2)(b) his business card.

According to the "Right to Know Act" or New York City Administrative Code 14-174, if no arrest was made nor summons issued then police officers must offer their business card to any person stopped at "Roadblock or checkpoint stops, including checkpoints related to enforcement of article 31 of the vehicle and traffic law, but not including planned security checks of vehicles at sensitive locations or street closures for public events or emergencies" (Board Review 14).

§ 87(2)(g)

§ 87(2)(g), § 87(4-b)

[illegible]

Civilian and Officer CCRB Histories

- § 87(2)(b) has been party to eight CCRB complaints and has been named the victim in 21 allegations (Board Review 16).

- [illegible]

- PO Mas has been a member of service for six years. He has been the subject of one prior allegation in one prior case, which was not been substantiated (Board Review 17).
- Sgt. Lou has been a member of service for 15 years. He has been the subject of eight allegations in two prior cases (Board Review 18).

- § 87(2)(g), § 87(4-b)

Mediation, Civil and Criminal Histories

- § 87(2)(b) rejected mediation (Board Review 19).
- A FOIL request filed with the NYC Comptroller's office indicates that § 87(2)(b) has not filed a Notice of Claim regarding this incident (Board Review 20).

- [§ 87(2)(b)] [§§ 86(1)(3)&(4)] [§ 87(2)(c)]
[REDACTED]
[REDACTED]
- [REDACTED]
[REDACTED]
- [REDACTED]
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[REDACTED]
[REDACTED]

Squad No.: 8

Investigator: John Jeffrey Inv. John Jeffrey 09/17/2020
Signature Print Title & Name Date

Squad Leader: Ethan De Angelo IM Ethan De Angelo 10/19/2020
Signature Print Title & Name Date

Reviewer: _____
Signature Print Title & Name Date